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IN THE

# SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, A. D. 1935

**No. 864**

M. J. PUFAHL, RECEIVER OF THE AUSTIN NATIONAL BANK OF CHICAGO, ILLINOIS, A CORPORATION,
*Petitioner,*

*vs.*

ESTATE OF ELVIRA J. PARKS, DECEASED,
*Respondent.*

## ANSWER OF ESTATE OF ELVIRA J. PARK, DECEASED, TO PETITION FOR WRIT OF CERTIORARI TO THE APPELLATE COURT OF THE FIRST DISTRICT OF THE STATE OF ILLINOIS.

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### STATEMENT OF CASE.

The statement of the case contained in the petition for the writ of certiorari is substantially correct.

The questions presented in the petition for the issuance of the writ of certiorari (Petitioner's Petition page 6, paragraph 5) are the only questions involved in this litigation.

**Reasons for denial of writ and summary of argument.**

1. No showing is made by the petitioner that the Statutes of the State of Illinois relative to the filing of claims against estate of decedents, in any way discriminate against claims of the type of the claims in the instant case.

2. No showing is made by the petitioner that the claim in question was entitled to be exempted from limitations applicable to claims of a similar nature but not created by a Federal Statute.

*Forrest* v. *Jack,* 294 U. S. 158-165;
*Seabury* v. *Green,* 294 U. S. 165-169.

## ARGUMENT.

The decisive question in this case is whether the laws of Illinois relative to the filing of claims in the Probate Court against the estate of decedents and the practice of the Probate Court as determined by such statutes are inconsistent with the Federal Statute in question or discriminate against claims arising under said statute.

It seems to be the contention of petitioner that the claim was of a special character which entitled it to be exempted from certain limitations which would have been applicable to it, if it had been an ordinary claim arising for instance upon a promissory note. It is admitted that the claim could not be discriminated against but upon the other hand, was it entitled to preferred treatment?

This general subject matter has been recently treated by the court in the cases of *Forrest* v. *Jack*, 294 U. S. 158-165 and *Seabury* v. *Green*, 294 U. S. 165-169.

In those cases the laws and practice of three states were discussed. These laws differed very radically from one another but the following principal was laid down:

> "In the absence of federal enactments relating to procedure for enforcement of the liability imposed by Section 66, collection is to be made in accordance with state laws governing claims against estates of deceased persons, at least to the extent that such laws are not inconsistent with enforcement of the liability imposed by national authority."

## CONCLUSION.

In conclusion respondent submits that the instant claim was given the same consideration which it would have received had it arisen in any other way than under a Federal Statute and that it was not entitled to be treated as preferred or unique.

Wherefore, it is respectfully prayed that said petition for writ of certiorari be denied.

Respectfully submitted,

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